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EL SALVADOR

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MINISTRY OF EXTERNAL AFFAIRS

I. LAND AND PEOPLE

A. Basic information

1. The basic data on the Republic of El Salvador are:

Area	21 041 km^2
Total number of inhabitants	5 047 896
Inhabitants per km^2 (1985 statistics)	239
Urban population	2 105 638
Male	1 002 951
Female	1 102 687
Rural population	3 232 258
Male	1 630 132
Female	1 602 126
Children	1 943 525
Adolescents	596 330

Life expectancy 1985-1990

Total	60.15
Men	58.00
Women	66.50

The official language of El Salvador is Spanish.

B. Geographical situation

2. El Salvador is situated in the south-west of the Central American Isthmus on the Pacific Coast and is the only country in the region that does not have a Caribbean coast.

3. El Salvador is in the torrid zone north of the equator, between 13°09' and 14°27' latitude north and 87°41' and 90°08' longitude west.

4. The territory over which El Salvador exercises complete jurisdiction and sovereignty includes, in addition to the mainland:

(a) The islands, islets and cays listed in the judgement of the Central American Court of Justice, delivered on 9 March 1970, which are also established as belonging to it by other sources of international law, as well as other islands, islets and cays which belong to it in accordance with international law;

(b) The territorial waters, and the common waters of the Gulf of Fonseca, which is a historic bay with the characteristics of a closed sea, and is governed by a regime defined by international law and by the judgement referred to above;

(c) The airspace, the subsoil and the corresponding continental and island shelf, as well as the sea, its subsoil and seabed to a distance of 200 nautical miles from the baseline, all in conformity with the rules of international law.

5. The Salvadorian territory is bounded:

(a) To the west, by the Republic of Guatemala, in accordance with the Treaty of Territorial Limits, signed in Guatemala, on 9 April 1938;

(b) To the north and east, partly by the Republic of Honduras in those sections delimited by the General Peace Treaty between the Republic of El Salvador and Honduras, signed in Lima, Peru, on 30 October 1980. As to the sections that are still to be delimited, the boundary will be those to be determined in accordance with the Treaty, or where appropriate, in accordance with any measures adopted for the peaceful settlement of international disputes. In this connection, the International Court of Justice delivered its judgement on 11 September 1992, and El Salvador, in fulfilment of its obligations and in conformity with international law, shall respect it in every sense;

(c) On the remainder of the eastern border, by the Republics of Honduras and Nicaragua along the Gulf of Fonseca;

(d) To the south, by the Pacific Ocean.

C. History

6. The history of El Salvador dates back to the pre-Colombian era some 1,500 years B.C., as can be seen from Mayan remains in the west of the country.

7. The first settlers were the Pokomans, Lencas and Chortis. They were followed by the Uluas and the Pipils, who settled in the western and central parts of the country about the middle of the eleventh century.

8. On 31 May 1522, the Spaniard, Andres Niño, headed an expedition which landed on Meanguera Island in the Gulf of Fonseca, the first part of Salvadorian territory to be visited by the Spaniards.

9. In June 1524, the Spanish captain Pedro de Alvarado launched a war to conquer the Pipil Indians in the land of Cuscatlan, which means "land of

jewels and riches". After 17 days of bloody fighting, in which many Indians, including Prince Atlacatl, chieftain of Cuscatlan, lost their lives, Pedro de Alvarado, defeated and wounded in the left thigh, abandoned the fight and withdrew to Guatemala, ordering his brother Gonzalo, to continue the conquest, and afterwards his cousin Diego de Alvarado, who founded the town of San Salvador, in April 1528, at a place called La Bermuda. In 1540, San Salvador was transferred to its present site and in September 1546 it was granted the status of a city by the emperors Charles V and Philip II of Spain.

10. In the years that followed, the country developed under Spanish domination, and by the end of the first decade of the nineteenth century, the Spanish colonies of Central America all wanted independence and autonomy.

11. The first proclamation of independence was made in San Salvador on 5 November 1811, by the leader of the independence movement, the priest, José Matías Delgado.

12. After much internal fighting, the Bill of Independence of Central America was signed in the Palacio de los Capitanes in Guatemala, on 15 September 1821.

13. In the year independence was proclaimed, the Government was established in Guatemala City and it decided on the union of the Central American provinces with Mexico. El Salvador, however, again under the leadership of Father Delgado, opposed the annexation until 1823, when the Mexican Empire fell and the five Central American provinces agreed to separate from one another.

14. These five provinces remained united under the so-called Federal Republic of Central America for some time, but they soon split up and formed the Republics of Guatemala, Honduras, El Salvador, Nicaragua and Costa Rica. However, the federalist feeling has never died and in recent years an effort has been made to attain this ideal.

15. On 12 June 1824, El Salvador promulgated its own Constitution, which was the first one to be drawn up in Central America.

16. Throughout the nineteenth century, political life in El Salvador, was turbulent. Liberals and conservatives fought for power in a series of political intrigues and uprisings, a situation which often aggravated conflicts in the neighbouring States. The Salvadorian Governments of the twentieth century for the most part maintained order and peace in the country. Consequently, during the first 25 years of this century, the country achieved outstanding economic development, accompanied by notable improvements in communications and transport.

17. Shortly afterwards, fresh internal difficulties arose and continued for some years, until the Government of General Maximiliano Hernandez Martinez was established by force. He assumed the office of President in 1931 and held it until 1944, when he was deposed.

18. In 1948, a revolutionary movement overthrew the regime of Salvador Castaneda Castro. Colonel Oscar Osorio held power from 1950 to 1956, when he was succeeded by Colonel José María Lemus. In late 1960, Lemus was

replaced by a leftist Junta that was overthrown in January of the following year and a more moderate joint civilian and military directorate took control of the country. In 1962, a new Constitution was promulgated and Lieutenant-Colonel Julio A. Rivera became President of the Republic until 1967. He was succeeded by General Fidel Sanchez Hernandez, who remained in office from 1967 to 1972. In 1972 Colonel Arturo Armando Melina became President. In 1977, General Carlos H. Romero was elected President. He was ousted in a coup on 15 October 1979 and succeeded by a Junta, which resigned in 1980 and a new one was formed. In 1982, elections were held for the Constituent Assembly, which decreed, ratified and proclaimed the 1983 Constitution of the Republic, which currently governs the institutional life of the nation. In 1982 also, a Government of National Unity was formed with Dr. Alvaro Magaña as President. In June 1984, he handed over political power to José Napoleón Duarte, who remained in office until May 1989, when he was succeeded by the current President of the Republic, Alfredo Felix Cristiani Burkard.

D. Economy

19. Agriculture is the mainstay of the country's economy and coffee is the principal source of foreign exchange. Other products include cotton, sugar-cane, cereals, vegetables, fruits and spices.

20. The famous balsam, used in the manufacture of pharmaceutical products and cosmetics, is also produced.

21. There are large industries: textiles, hides, pharmaceuticals, machinery, electrical and construction equipment, and metal furniture and much more.

22. Tables showing the economic indicators, the main export items and the trade balance are included below.

23. Electricity is produced from natural resources by a national company at four hydroelectric plants and one geothermal plant.

24. The first electric lighting service was inaugurated in San Salvador on 17 November 1890, with a 62 kilowatt generator driven by an internal combustion engine.

25. In the area of telecommunications, advanced technology is used, including microwave systems, digital systems and artificial satellites. There are also telephone, telegraph, telex, fax systems, teleprocessing and data transmission networks and satellite television. Telephone calls may be made from any home to any part of the world.

26. The first telegraph service was inaugurated in San Salvador on 27 April 1870.

Table 1

ECONOMIC INDICATORS OF EL SALVADOR
1986-1992

	1986	1987	1988	1989	1990	1991	1992
Gross national product (in thousands of current colones)	19 290 900	22 616 100	26 856 800	31 662 200	40 281 800	46 903 300	
Net national product (in thousands of current colones)	18 475 600	21 661 500	25 727 900	30 333 500	38 588 100	44 934 500	
Consumer price index	30.4	19.59	18.2	23.5	19.3	9.79	7.1*
Per capita income (in current colones)	399.37	457.87	537.64	620.60	778.73		
GDP growth rate (percentage)	0.63	2.69	1.63	1.06	3.48	3.47	

* January-June 1992.

Source: Central Reserve Bank of El Salvador
Statistics and Census Office.

Table 2

EL SALVADOR: MAIN EXPORT ITEMS
(January 1988-April 1992)

(Value in thousands of colones and volume in thousands of kilograms)

EXPORT ITEMS	1988		1989		1990		1991		1992 *	
	Value	Volume	Value	Volume	Value	Volume	Value	Volume	Value	Volume
Shrimps	80 204	3 160	56 414	2 163	111 150	3 141	163 679	3 291	40 996	600
Coffee in various forms	1 804 035	126 563	1 292 088	95 448	1 997 012	149 447	1 781 218	128 910	538 778	47 979
Unrefined sugar	95 845	78 299	74 962	28 621	154 158	44 779	258 149	81 154	161 227	56 916
Drugs for medical or veterinary use	87 638	1 344	115 435	2 492	157 168	1 325	176 538	1 275		
Paper or paperboard containers	58 307	9 355	83 013	9 324	118 271	10 581	149 275	12 418		
Cotton yarns	46 368	3 480	72 276	5 044	135 987	6 234	143 779	7 015		
Clothing	38 710	1 125	47 009	874	112 533	1 036	149 496	1 834		
Towels, bed, table and kitchen linen	48 197	1 566	69 080	1 792	80 864	1 541	242 501	6 150		
Footwear of leather and synthetic material	52 947	1 956	49 540	1 585	90 972	1 731	86 783	1 528		
Aluminium products	48 765	1 929	70 766	2 288	111 553	3 013	111 874	2 779		

* Data was gathered for the three main export items only.

Source: Central Reserve Bank of Ecuador.

Table 3

TRADE BALANCE OF EL SALVADOR
1986-1992

(Value in millions of colones and volume in thousands of kilograms)

YEAR	EXPORTS		IMPORTS		TRADE BALANCE
	FOB Value	Volume	FOB Value	Volume	Value
1986	3 774.6	412 849	4 674.4	1 801 622	(899.8)
1987	2 954.7	367 023	4 970.3	1 985 439	(2 015.6)
1988	3 043.8	361 548	5 034.9	1 921 585	(1 991.1)
1989	2 786.2	298 438	6 503.6	1 910 817	(3 717.4)
1990	4 425.0	423 865	9 594.8	2 359 888	(5 169.8)
1991	4 715.8	474 383	11 275.8	2 501 267	(6 560.0)
1992 (*)	1 743.7	230 400	4 235.6	845 840	(2 491.9)

(*) Includes the period January to April.

Source: Central Reserve Bank of El Salvador.

II. GENERAL POLITICAL STRUCTURE

A. Political organization

27. The life of the political institutions of El Salvador is governed by the Constitution which entered into force on 20 December 1983 and was elaborated by the Constituent Assembly elected by popular vote in 1982; it was amended in 1991 and 1992.

28. The promulgation of the present Constitution has brought about a remarkable change for the nation by placing the individual at the centre of State activity. Unlike the previous constitutional instruments, particularly the more recent ones of 1950 and 1962, the guiding principle of the present Constitution is protection of and respect for the individual and his dignity, with the appropriate safeguards for the rights inherent in that dignity, thereby showing the importance attached by the State to the pursuit of the major national objectives.

29. A cursory comparison will reveal this change. The Constitutions of 1950 and 1962 gave pride of place to the provisions on the State and the form of Government, citizenship, the electorate and political rights, and went on to set out the rules on the public authorities and other organs and the economic system; only then did they set out the rules on the rights and safeguards of the individual, the family, labour matters and social security, culture, public safety and social welfare. The 1983 Constitution, on the other hand, rests on philosophical and political foundations which set store on the individual and the aims which the State must accordingly endeavour to achieve.

The Constitution thus begins by declaring in article 1 that "El Salvador recognizes the individual as the source and the object of the activity of the State, which is organized for the attainment of justice, judicial security, and the common good. In consequence, it is the duty of the State to ensure that the inhabitants of the Republic enjoy liberty, health, culture, economic well-being and social justice".

30. This humanist concept based on the human being, which has also been embodied in the preamble of the Constitution, provides the key to a proper interpretation of the whole text of the Constitution, and that self-same concept lends substance to the development of the political, economic, social and cultural programmes that the organs of the Government are required to implement.

31. This difference in normative structure compared with earlier Constitutions shows the legislature's concern to draw the attention of those in office to the respect and consideration that must always be displayed towards the individual and the safeguards which must be provided for his fundamental rights, since man and his life are of the utmost worth, while objects are only of instrumental value. The State must be at the service of man, thereby ruling out any system which tries to dehumanize him and subject him to any form of oppression or slavery.

32. In November 1991 and January 1992 the present Legislative Assembly ratifies the reforms to the Constitution which had been adopted under earlier legislation.

33. The merit of these constitutional amendments is twofold: first, they followed under the constitutional procedure specified in the Constitution itself in article 248, and second, the amendments deal with human rights, electoral matters, the Judiciary and the armed forces, the purpose being to establish or strengthen peace and to consolidate democracy. They have moreover been the subject of a national consensus.

34. Details will be provided below on each of the amendments.

B. Political structure

35. El Salvador is a sovereign State. Sovereignty is vested in the people, who exercise it in the form and within the limits laid down in the Constitution. The State is unitary.

36. The form of government is republican, democratic and representative.

37. The political system is pluralist and is reflected in political parties, which are the sole instrument for representation of the people in the Government. Their rules, organization and operation are governed by the principles of representative democracy.

38. The existence of a single official party is incompatible with a democratic system and with the form of government established in the Constitution.

39. Public authority emanates from the people. The various branches of government exercise their powers independently, within their respective jurisdiction, as established by the Constitution and the law. The duties of the branches of government may not be delegated, by the various branches must cooperate with one another in performing State duties.

40. The basic branches of the Government are the Legislature, the Executive and the Judiciary.

41. Government officials are the delegates of the people and have no powers greater than those expressly conferred on them by law.

42. For the purpose of political and administrative organization, the territory of the Republic is divided into departments, the number being established by the law; there are 14 at present.

1. Legislature

43. The function of legislating, in other words, of creating, amending, interpreting and repealing laws, is vested in El Salvador in the Legislative Assembly, a collegiate body consisting of deputies elected by the people by direct, secret and equal vote. The deputies represent the whole of the people and are not bound by mandatory terms of reference. They are inviolable and cannot be held liable at any time for the opinions they express or the votes they cast.

44. Deputies are elected for a term of three years and can be re-elected. Their term of office begins on 1 May of the year they are elected; in accordance with article 12 of the Electoral Code there are 84 deputies.

45. For the purposes of a decision, the vote of at least one-half of the elected deputies plus one is required; since there are 84 deputies, the majority is 43. However, a number of decisions require a two-thirds majority, such as election of the Attorney-General of the Republic, the Prosecutor-General of the Republic and the Procurator for the Protection of Human Rights.

46. While in office, deputies may not occupy any paid public post throughout the period for which they have been elected, except for academic or cultural posts or those connected with professional social welfare services.

2. Executive

47. The Executive consists of the President and Vice-President of the Republic, the Ministers and Deputy Ministers of State and their subordinate officials. This branch of the Government acts in conformity with the provisions of the Constitution and of the Regulations of the Executive.

48. The conduct of public affairs is the responsibility of the Secretariats of State, which are assigned the various sectors of the administration. Each secretariat is headed by a minister, who acts in cooperation with one or more deputy-ministers.

49. During the present presidential term of office ministries and secretariats are as follows:

Ministry of the Presidency
Ministry of Foreign Affairs
Ministry of Planning and Coordination of Economic and Social Development
Ministry of the Interior
Ministry of Justice
Ministry of Finance
Ministry for Economic Affairs
Ministry of Education
Ministry of Defence
Ministry of Labour and Social Insurance
Ministry of Agriculture
Ministry of Health and Social Welfare
Ministry of Works
National Secretariat for the Family
National Secretariat for Communications
Secretariat for National Reconstruction
Executive Secretariat for the Environment

3. Judiciary

50. The Judiciary is the branch in which the Constitution has vested the exclusive power to adjudicate and to execute judicial decisions in constitutional, civil, criminal, commercial, labour, and agrarian matters, as well as administrative disputes; it is governed by an Organization Act that determines its structure and the way it operates.

51. Under the Act, the Supreme Court of Justice - which, together with the Courts of Appeal (or second tier jurisdictions) and the lower courts, makes up the Judiciary - consists of 14 Supreme Court Justices, assigned to 4 Divisions: the Constitutional, Civil, Criminal and Administrative Disputes Divisions. The first consists of five specially elected justices and is headed by the President of the Court, who is at the same time President of the Judiciary.

52. The other three divisions consist of three justices each, designated by the Court itself from among the remaining members. The courts of second instance, which are courts of appeal, consist of two judges; the Courts of first instance and the courts of the justices of the peace are single-judge courts. All of these judges are appointed by the Supreme Court of Justice from three candidates submitted in each case by the National Council of the Judicature. All the members of the Judiciary are independent in the discharge of their duties and subject exclusively to the Constitution and the law; nevertheless, they are empowered by the Constitution, in the cases in which they are called upon to adjudicate, to declare the inapplicability of any law or any measure taken by another branch of the Government on the grounds of a breach of constitutional provisions.

53. The Judiciary Organization Act lays down the organization of the courts, determines the functions of the President of the Judiciary, of the Supreme Court of Justice and its divisions; of the courts of appeal and of the lower courts and also determines the duties of other judicial officials who do not

exercise jurisdiction such as chiefs of section, registrars, chief clerks, legal assistants and so on. The Act also establishes the actual area covered by each court and its jurisdiction.

54. Under the Act, the Supreme Court of Justice has the following sections: Notarial Section, to monitor the functions of notaries; the Probity Section, to keep a check on the assets of public officials under the Law on the Illicit Enrichment of Public Officials and Employees; the Professional Investigation Section, to investigate the conduct of lawyers, notaries, law students empowered to defend or represent, bailiffs and other officials appointed by the court who are not members of the Judiciary, as well as the Publications Section, to issue the Revista Judicial, the information publication of the Supreme Court of Justice, also used in particular for laws and regulations relating to the Judiciary and on academic works on legal subjects by national authors.

55. The Judiciary Organization Act also specifies the system of leave both for officials and for employees, whether with or without pay, on grounds of illness established by medical certificate. In an emergency it also has medical personnel for the exclusive use of the courts.

56. Pursuant to the same Act, the Judiciary's funds have been used to establish the Forensic Medicine Institutes in the capital cities of the provinces or departments of the Republic, with medical staff specializing in forensic medicine and with the necessary equipment to run these institutions, for their work is of inestimable value in aiding the criminal courts in scientific investigations. In addition, the Department of Information on Detainees, keeps a check on such persons in order to guarantee their rights and to provide information to interested applicants. For these purposes, every State or municipal judicial or administrative authority or auxiliary body in the administration of justice or military or subordinate authorities must, within 24 hours, inform the Department of the detention of any person carried out on their own initiative or pursuant to an order by the competent authority.

III. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

A. Institutions for the protection of human rights

57. The institutions indicated below are those which guarantee the effective exercise of human rights and fundamental freedoms:

(a) Supreme Court of Justice

Courts of the Judicial Order

- Justices of the Peace
- Courts of First Instance

(b) Ministry of Justice

(c) Presidential Commissioner for Human Rights

(Office of the Executive)

(d) Department of Public Prosecutions

- Attorney-General of the Republic
- Prosecutor-General of the Republic
- Office of the Procurator for the Protection of Human Rights.

58. The post of Deputy Procurator for Human Rights has been established in the Office of the Attorney-General of the Republic, and the Supreme Court of Justice has established a Department of Human Rights, under the Division of Criminal Affairs. Similarly, the Legislative Assembly has set up a Commission on Justice and Human Rights and the Armed Forces have set up the Human Rights Commission as a part of the Civil Affairs Section.

Judicial authority in El Salvador

59. We consider it important to describe, in very general terms, how judicial authority is exercised in El Salvador.

60. Judicial authority lies with the Judiciary, consisting of the Supreme Court of Justice, the Divisions of the Court, the appeal courts, the courts of first instance and the courts of the justices of the peace. As we have already seen, this branch of government has exclusive powers to adjudicate and to execute judgements in all matters; this is established by article 172 of the Constitution.

61. It will be seen, first, that the exercise of judicial authority in El Salvador lies exclusively with the courts; and second, that judges are independent, with no restrictions other than those established by the Constitution, as the supreme norm, and by the law. Consequently, jurisdiction is exercised in accordance with the principles of constitutional legality and the ordinary rule of law, a principle of long standing that has been reiterated by a number of provisions of ordinary legislation.

62. It is also established that justice shall be administered free of charge (art. 181 of the Constitution), as a result of the principle of access to justice.

63. Moreover, the Code of Civil Procedure, despite the fact that it was framed within the traditional postulates of the nineteenth century, contains a whole body of residual procedural rules which can be invoked without distorting the provisions of special legislation; in this sense, the Code of Civil Procedure contains many provisions of universal application, such as those which regulate the exercise of jurisdiction.

64. The jurisdiction of the Courts in El Salvador tends to be specialized by subject-matter. Accordingly, there are the courts of first instance for civil, criminal and labour cases, tenancies, traffic, commerce, juveniles and public finances; there are also courts of appeal in civil, labour and criminal

matters, and the Supreme Court of Justice, includes the constitutional, civil, criminal and administrative disputes divisions. They exercise constitutional jurisdiction, deal with reviews on points of law in civil and criminal cases and with administrative disputes, as the final arbiter for a check on the constitutionality and legality of acts by any public authority.

65. In addition to the Code of Civil Procedure there is the Code of Criminal Procedure, the Commercial Procedure Act, the Cassation Act, the Constitutional Procedure Act, the Administrative Disputes (Procedure) Act, the Traffic Accidents (Special Procedure) Act, the Act on Guaranteed Access to Justice for Public Officials not belonging to the Established Civil Service, the Notarial Voluntary Jurisdiction and Other Measures Act, the Tenancy Act and the Labour Code (the last two contain rules of procedure for application in court), and other special laws with the same purpose.

66. All the actions of the Judiciary are governed by the Judiciary Organization Act; the Offices of the Attorney-General and the Prosecutor-General are governed by the Public Prosecutions Act; the functioning of the Office of the Procurator for the Protection of Human Rights falls under the Constitution and the Act on the Office of the Procurator for the Protection of Human Rights.

67. The activity of the Presidential Commissioner for Human Rights is regulated by Executive Decree No. 7.

68. A step of the utmost importance for the system of guaranteeing protection of human rights was the appointment of the Procurator for the Protection of Human Rights, pursuant to a provision inserted in the Constitution by Legislative Decree No. 64 of 31 October 1991 as a result of the implementation of the Peace Agreement reached in the negotiations between the Government and the Frente Farabundo Martí para la Liberación Nacional (FMLN).

69. Article 194 of the Constitution confers the following powers on the Procurator:

> "Article 194. The Procurator for the Protection of Human Rights and the Prosecutor-General of the Republic shall have the following powers:
>
> I. The Procurator for the Protection of Human Rights shall:
>
> 1. Ensure the observance of human rights;
>
> 2. Investigate, of his own accord or on complaints received by him, cases of human rights violations;
>
> 3. Assist presumed victims of human rights violations;
>
> 4. Initiate judicial or administrative proceedings for the protection of human rights;
>
> 5. Monitor the situation of persons deprived of their freedom. He shall be notified of all arrests and shall ensure that the legal limits for administrative detention are observed;

6. Carry out any inspections he deems necessary in order to ensure respect for human rights;

7. Supervise the conduct of the public administration towards individuals;

8. Promote reforms in the branches of the State for the advancement of human rights;

9. Give advice concerning draft legislation which affects the exercise of human rights;

10. Promote and propose any measures he deems necessary in order to prevent human rights violations;

11. Formulate conclusions and recommendations, publicly or privately;

12. Prepare and publish reports;

13. Develop a continuing programme of activities to foster awareness of and respect for human rights;

14. Any others assigned to him by the Constitution or the law

70. The Office of the Procurator for the Protection of Human Rights is a part of the Department of Public Prosecutions. It is permanent and independent, with its own legal personality and administrative autonomy, and its purpose is to ensure that human rights are promoted and taught and are unconditionally effective.

71. The Office is headed by the Procurator for the Protection of Human Rights, who performs his duties throughout all of the national territory, either personally or through his deputies. The Office has its main domicile in the city of San Salvador and may establish branches anywhere in the country.

72. For the purposes of the law, which determines the Office's duties and operation, human rights means civil, political, economic, social and cultural rights and the rights of the third generation set out in the Constitution, the laws and the treaties in force.

73. The tenure of the Procurator is independent of any institution, organ or authority and is subject only to the Constitution and the laws of the Republic.

74. The Procurator for the Protection of Human Rights is elected by the Legislative Assembly, by a clear two-thirds majority of the elected deputies, for a three-year term and he may be re-elected.

75. The holder of this post may not hold any other public office or exercise his profession, with the exception of teaching or cultural activities; the post is also incompatible with active participation in political parties, executive positions in trade union or business organizations or with the position of minister of any religious denomination.

76. The Procurator may not be removed from office during the period for which he has been elected, and during that time he shall have all the safeguards, rights, prerogatives and guarantees necessary for the discharge of the duties assigned to him by the Constitution and the law.

77. It is important to note that the Procurator may, for the proper discharge of his duties, ask the branches of the State, the civil, military or police authorities or officials and any other person for their assistance, cooperation, reports, or opinions and they are obliged to cooperate with him and to give his requests and recommendations priority and immediate attention.

78. In addition to those mentioned above, the Procurator has the following duties:

(a) To ensure strict compliance with the legal procedures and time-limits for the various appeals he may lodge or the legal proceedings in which he may be involved;

(b) To ensure respect for the guarantees of due process and to prevent detainees from being held in solitary confinement;

(c) To keep a central record of the persons deprived of their freedom and of the authorized detention centres;

(d) To submit draft legislation for the promotion of human rights in El Salvador;

(e) To promote the signature, ratification of or accession to international treaties on human rights;

(f) To issue statements of public censure against persons materially or intellectually responsible for human rights violations;

(g) To endeavour to reconcile persons whose rights have been violated with the authorities or officials allegedly responsible, when the nature of the case so permits;

(h) To establish, promote and develop communication and cooperation links with governmental, intergovernmental and non-governmental agencies for the promotion and protection of human rights, both national and international, and with the various sectors of Salvadorian society;

(i) To issue the rules and regulations for the application of this Act and any rules of procedure which may be necessary;

(j) To appoint, remove, grant leave to and accept the resignations of officials and employees of the office;

(k) To prepare the annual budget and forward it to the relevant authority; and

(l) Any other duties assigned to him by the Constitution or the law.

79. In addition to the Procurator, the Office is composed of the Deputy Procurator for the Protection of Human Rights and the Deputy Procurators for the Protection of the Child, Women, the Elderly and the Environment and of any other Deputy Procurators which the Procurator may consider necessary to enable him to discharge his constitutional and legal duties in the best possible manner.

80. Since its establishment, the Office of the Procurator for the Protection of Human Rights has gradually assumed a more prominent role in national life. To date, it has regional offices operating in the eastern, western and central areas of the country.

B. National legal framework for the protection of human rights

81. The rights established in the International Covenant on Civil and Political Rights are also included in the Constitution and further developed in subsidiary legislation. The relationship of this instrument to national legislation should be explained.

82. The Constitution of 1983, which is currently operative, establishes the principle that, once international treaties enter into force in accordance with their own provisions and the Constitution, they become laws of the Republic. In this way the idea has been accepted that treaties that have been legally concluded and ratified form part of Salvadorian legislation.

83. The second principle found in this Constitution, a new feature that did not exist in the previous Constitution of 1962, is that treaties are given a place in Salvadorian law. Thus, it is established, beyond any doubt, that a treaty has a higher ranking than subsidiary laws, whether enacted before or after the entry into force of the treaty. In this way, under the treaty, the earlier subsidiary law may be repealed but no further legislation may repeal or amend the provisions of a treaty.

84. Article 144, paragraph 2, of the Constitution confirms the previous statement when it provides that in the event of a conflict between the treaty and the law, the treaty shall take precedence.

85. The Legislative Assembly has the power to ratify international treaties and the executive, headed by the President of the Republic, has the authority to conclude them. The Assembly may refuse to ratify the instrument or may ratify it with reservations if it considers the parts to which it objects are unconstitutional or inappropriate.

86. The word "treaty" in the Constitution, has an extremely broad meaning and covers agreement, covenant, convention, protocol, amendment, etc. Consequently, a treaty is a subsidiary law which takes precedence over other subsidiary law per se.

87. It should be pointed out that, in drafting the Salvadorian fundamental law, i.e. the Constitution, which, as stated earlier was promulgated in December 1983, the legislature took into consideration the international norms on the various categories of instruments, especially those on human rights, including the International Covenants on Human Rights and the Universal Declaration of Human Rights.

C. Constitutional reforms of 1991 and 1992 in respect of the administration of justice

88. Chapter III, Heading VI of the Constitution, which deals with the Judiciary, has undergone substantial amendments that will greatly help to improve the administration of justice. One example is the provision that the Judiciary must have a minimum annual allocation of 6 per cent of the State budget revenue (art. 172, final paragraph). It should be borne in mind that the system of administering justice is now being fully modernized and that such an allocation will strengthen that process. Again, justices of the peace will be lawyers and regarded as members of the judicial profession. Only in exceptional cases may persons be appointed if they are not lawyers (art. 80); the period of tenure of the justices of the Supreme Court of Justice is extended, thus making for more stability and thus strengthening their independence (art. 186). The powers of the National Council of the Judiciary have been expanded so as to nominate candidates for the posts as justices of the Supreme Court and justices of the peace and to assume responsibility for the organization and functioning of the Judicial Service Training College (art. 187).

D. Independence of judges and the Judiciary

89. Article 172, paragraph 3, of the Constitution provides that "In matters pertaining to the discharge of judicial duties, judges shall be independent and subject exclusively to the Constitution and the law". In accordance with that provision, every judge must rely only on the Constitution and the law, which shall be respected in the judgements handed down. Consequently, in El Salvador, judges are, irrespective of their rank, independent when trying the cases brought before them.

90. In this regard, the independence enjoyed by judges in the exercise of their judicial duties, is consistent with the idea of due process, which is also established in the Constitution. Article 24 of the Judiciary Organization Act also conveys this idea by providing that "In matters pertaining to the discharge of their judicial duties, judges shall be independent and subject exclusively to the Constitution and the law. They may not lay down any rules or provisions of a general character regarding the application or interpretation of the laws nor may they publicly censure the application or interpretation by other courts in their judgements, whether they are of higher or lower courts. The foregoing shall be interpreted without prejudice to the provisions of article 183 of the Constitution and to the fact that the higher courts may issue to the lower courts any warnings which they deem appropriate for better administration of justice".

91. As a result of these provisions in his decisions a judge may not be subject to any authority other than the terms of the Constitution and of the laws, which must apply.

92. The present Constitution in force has guaranteed the independence of the Judiciary vis-à-vis the other branch of the State, in a series of provisions that cover budget and operational matters. Article 182 of the Constitution lays down it is the duty of the Supreme Court of Justice "To prepare the budget for salaries and expenditures in the administration of justice and to

forward it to the Executive for inclusion in the General State budget". The Legislative Assembly shall consult the Supreme Court of Justice about any adjustments to the budget estimates that it deems necessary.

93. Article 229 of the Constitution provides that "The Executive, with due regard for legal formalities, may make transfers between items of the same administrative department or organ, with the exception of those declared in the budget to be non-transferable". The Judiciary is also so authorized in respect of the items of its budget, with due regard for legal formalities.

94. The organizational, economic and operational independence of the judicial body of El Salvador is currently guaranteed under the various constitutional provisions mentioned in this document. As to its operational independence, mention should also be made of the Judicial Profession Act and the National Council of the Judiciary Act, two laws which strengthen the administration of justice and the independence of the officials concerned. To that end, the first Act sets out the principle of security of tenure and promotion of judges, whereas the second elaborates the principle even further, making it feasible to assess the competence of the judges, by establishing the Judicial Service Training College.

95. The above is also based on the Constitution, specifically articles 186 and 187.

E. Participation of the Judiciary in law-making

96. Under article 172, paragraph 1, of part I of the Constitution, the Judiciary is composed of the Supreme Court of Justice, the courts of second instance, and any other courts established by the subsidiary laws. The Supreme Court may in certain cases intervene in the law-making process and, since it is a part of the Judiciary, this should be taken to mean participation by the Judiciary itself in that process.

97. Under article 133, paragraph 3, of the Constitution, the Supreme Court of Justice has the power to draft legislation on matters concerning the Judiciary, the practice of the legal profession by notaries and barristers and the jurisdiction and competence of the courts. Therefore, the Court (as a collegiate body) may submit bills to the Legislative Assembly, to be enacted as laws of the Republic, but only in respect of the matters pertaining to the above-mentioned provision. These include matters concerning the Judiciary and the jurisdiction of the courts, something that implicitly involves the administration of justice, which means in the broad sense all the courts responsible for trying cases and ensuring the execution of judgements and in the strict sense, the power of the courts to apply the laws to particular cases.

98. Under article 172, paragraph 1, of the Constitution, the Judiciary has exclusive authority to try cases and ensure the execution of the judgements, in constitutional, civil, criminal, commercial, labour and agrarian and administrative matters, as well as any others specified by the law, all of which constitutes the administration of justice. Article 172, paragraph 2, provides that the organization and operation of the Judiciary shall be specified by law.

99. It was under the 1864 Constitution that the power to draft legislation was first accorded to the Supreme Court of Justice (which in the Constitution of that year and in the Constitution of 1865 was called "the Court of Justice" and in the Constitution of 1883, "the Court of Cassation"). In all of these Constitutions the power granted was unlimited. Not until the Constitution of 1983 was any restriction placed on the matters on which the Court could take draft legislation, but it still maintains that right in matters concerning the administration of justice, as stated earlier.

100. The Supreme Court of Justice may also intervene in the law-making process, on any matter, when the President of the Republic vetoes a bill on the grounds of unconstitutionality, and the Legislature confirms it by at least two-thirds of the votes of the elected deputies. In that case, the President of the Republic must, within three days, ask the Supreme Court of Justice to decide whether or not the bill is constitutional.

F. Judges

101. Appointments as judges in El Salvador are given to professionals in legal science who have not only obtained an academic degree awarded by the appropriate university but have also been admitted as practising lawyers. This is an absolute requirement for judges of the court of first instance and justices of the Supreme Court and the courts of second instance or courts of appeal. The justices of the peace, as an exception, are not lawyers, by virtue of the most recent amendments to the Constitution.

102. Of all the officers who perform judicial duties, a judge of a court of first instance is the most important, because he is the official who takes full cognizance of the cases that fall within his jurisdiction; the higher courts only hear cases on appeal or at a higher level, and on the specific points indicated in the appeals. Thus, cases fall completely within the jurisdiction of the judges of the court of first instance and to a limited extent within that of the judges of the higher courts. Therefore, the former are very important.

103. Judges of the courts of first instance have been established in all the departmental capitals and there is a tendency towards specialization, although much remains to be done in this regard because of the lack of adequate economic resources. Nevertheless, there are judges of this category who deal with civil penal, labour, commercial, financial, tenancy, traffic and juvenile matters.

G. Judicial profession

104. Article 186 establishes the judicial profession, i.e. a career in the judiciary. The justices of the Supreme Court are elected by the Legislative Assembly for a period of nine years; they may be re-elected and one third of them are replaced every three years. They may be removed from office by the Legislative Assembly on specific grounds established by law. Both the election and the removal of justices require the vote of at least two thirds of the elected deputies.

105. Justices of the Supreme Court are chosen from a list of candidates drawn up by the National Council of the Judiciary as specified by law; one half of

the candidates must be put forward by the bodies which represent the lawyers of El Salvador and must be representative of the major trends in legal thinking.

106. The judges of the courts of appeal, the judges of the courts of first instance and the justices of the peace enjoy security of tenure.

107. The law must afford protection to judges to enable them in the cases brought before them, to perform their duties freely, impartially and without any pressure, together with a fair remuneration and a standard of living in keeping with their responsibilities. The law specifies the substantive and formal requirements for entering the judicial profession, as well as promotion, advancement, transfers, disciplinary sanctions and other relevant questions.

108. Article 187 of the Constitution specifies that the National Council of the Judiciary is an independent institution with the task of proposing candidates for posts as justices of Supreme Court judges in courts of appeal or courts of first instance, as well as justices of the peace. The National Council of the Judiciary is responsible for organizing and operating the Judicial Service Training College, the purpose of which is to enhance the abilities of judges and other judicial officers. The members of the National Council of the Judiciary are elected by the Legislative Assembly by a qualified majority of two thirds of the elected deputies. The law shall determine all matters concerning this subject.

109. Under article 188, the office of justice or judge is incompatible with practice of the profession of lawyer or notary, as well as the position of an official of other organs of the State, except for teaching posts and temporary diplomatic missions.

110. Legislative Decree No. 536 of 12 July 1990 was issued to promulgate the Judicial Profession Act and it shall be noted that it goes further than is required by the Constitution. This can be seen from article 1, which states that the purpose of the Act is to organize the careers in the judicial service, to regulate the service relations of the officers and employees of the courts with the Judiciary, to regulate the requirements for entry, promotions and advancement on the basis of merit and aptitude, transfers, as well as the rights, duties, benefits and disciplinary sanctions applicable to the members. The same text specifies that the purpose of the judicial profession is to ensure professionalism and advancement of judicial officers and employees as well as security of tenure and functional independence, thereby contributing to effective administration of justice.

111. The Act specifies that it applies to the judges of the courts of appeal, and of the courts of first instance and in general to all servants of the Judiciary. It states moreover that it applies to justices of the peace during the period for which they are appointed and that the justices of the Supreme Court are not subject to the regime established by that law but that the duties, prohibitions and responsibilities specified in the Act apply to them.

112. Members of the judicial profession enjoy security of tenure and, accordingly, may not be removed, suspended or transferred except in the cases and by the procedures specified by the law. It is explained, moreover, that

the security of tenure of justices and judges starts from the day they take office and that, in the case of other servants of the judiciary, they are appointed on an interim basis for a probationary period of 60 days, after which period, in the absence of any unfavourable report by the immediate superior, they continue in office and enjoy security of tenure. However, security staff working in the Judiciary has confidential status and hence do not enjoy security of tenure.

113. The judicial profession is supervised by the Supreme Court of Justice, which has the following powers: (i) to appoint members of the judicial staff working in the offices and sections of the Court; (ii) to confirm nominations of judicial officers made by judges of the courts of appeal or of the lower courts, as well as to remove and suspend them on legal grounds; (iii) to deal, where appropriate, with cases of disciplinary action; (iv) to include in the budget estimates for the Judiciary items to cover the salaries of the members of the judicial profession, in accordance with the pay schedule; (v) to take appropriate measures in the event of serious disagreement between members of the profession when it causes or may cause harm to the administration of justice or to the order and good name of the courts and administrative offices; (vi) to order transfers; and (vii) to perform any other functions determined by law.

114. Without prejudice to these duties, which are incumbent on the Supreme Court, the President of the Court is the superior officer of the judicial staff working in its offices and sections; as is the presiding judge of each court of appeal, and as is the judge in the courts of first instance and the courts of the justices of the peace.

115. The posts of non-adjudicating members of the profession are likewise governed by the classification laid down in the regulations and in the Post Classification Manual.

116. Members enter the profession at the lowest level in each class. Nevertheless, if a candidate fulfils the special requirements for a post, he may apply and undergo the corresponding process of selection. In the event of equal results, preference must be given to the candidate who already has a career in the profession.

117. The law sets forth in clear terms the rights and duties of members of the profession and enumerates the rights as follows: (i) security of tenure; (ii) a salary corresponding to the class and category, with appropriate allowances; (iii) advancement and promotion; (iv) immediate protection by the State authorities when his life or personal integrity is threatened because of his duties; and (v) other rights provided for in the Judicial Profession Act and other laws.

118. It should be noted that judicial office is incompatible with participation in party politics; i.e. acting as an executive or representative of a political party or engaging in party canvassing.

119. Similarly, judicial officers and employees may not perform any duties other than those corresponding to their posts and may not act as informal experts, arbitrators, court receivers, guarantors, intermediary bailiffs, defence attorneys or court-designated defence lawyers, mediators in

matrimonial causes, ad litem receivers or administrators of unclaimed estates or any other function as an auxiliary of the courts, except that of an executing judge in habeas corpus proceedings. The following may not be appointed to judicial office or exercise such office: those whose citizen's rights have been suspended or lost; the blind, the deaf and the mute; those who do not enjoy in full their mental faculties and those who have been previously removed from judicial office, unless rehabilitated.

120. The law requires the Supreme Court to draw up a Post Classification Manual and a pay schedule for the servants of the judiciary. The pay schedule specifies the commencing, intermediate and maximum salaries for each post or group of posts, with due observance of the principle that equal work under similar conditions must involve equal pay. The schedule, which must be revised at least once a year, must take into account the modalities and complexity of each post, the degree of responsibility involved and other factors that determine fair remuneration so that the officer or employee concerned can live a life of dignity. For the purpose of preparing or revising the plan, the Court may call on the cooperation of the Council of the Judiciary or other specialized agencies to prepare the appropriate draft.

121. It is specified that the ordinary working day in all courts lasts at least 5 hours and that the working week cannot exceed 40 hours, but the Supreme Court, in addition to determining the timetable, may extend the working day to up to 8 hours when the corresponding budgetary allocation so permits; in this case, provision must be made for the appropriate overtime pay or differentials. Overtime may not exceed 4 hours in a single working day, except if performed while on roster or in case of need and it must then be paid as overtime as specified by law.

122. Concerning the first investigation steps to be carried out outside ordinary working hours, the law contains rules for the establishment of rosters for the courts of first instance and for the justices of the peace, as well as the forensic physicians.

123. Court officers and employees are entitled to holidays and to annual leave in accordance with the law, as well as to payment, at the end of the first fortnight of December, of a bonus in respect of each year or part of the year worked thereof; the amount of the bonus is established annually in the budget for the Judiciary.

124. The Supreme Court grants sick leave with pay to judicial officers and employees. The decision on the subject must specify the period of leave granted in the light of the seriousness of the illness, but sick leave may not exceed five months in each year of service. Female staff members are entitled to 12 weeks' maternity leave with pay. For this purpose, the applicant must produce the necessary medical certificates.

125. Members of the judicial profession may be transferred to a post of the same category in the Post Classification Manual, on the ground of the interests of the service as assessed by the court. Exchanges of posts are possible at the request of both of the persons concerned, even in different categories within the same class, provided the Court considers that the administration of justice is not affected.

126. If a post is abolished, the person left unemployed will be entitled to compensation equivalent to one month's salary for each year of service.

127. Without prejudice to benefits established in other legislation, the Act establishes that the Court must organize an insurance scheme to provide judicial officers and employees with coverage for medical care and hospital treatment, life insurance, personal accident insurance, loans for the purchase, restoration or conversion of housing and a voluntary early retirement bonus equivalent to six months of the last salary, provided that at least two thirds of the time required for normal retirement has been served.

128. The courts are monitored by inspections to ensure proper administration of justice and ascertain the shortcomings and the needs of each court. Whenever the Supreme Court considers it appropriate, and at least once a year, it visits the courts of appeal, of first instance and of justices of the peace for these purposes; it may also assign those visits to the Council, to the Divisions of the Court, to the courts of appeal or to judges in courts of first instance.

129. Inspection follows the appropriate technical procedures and involves, as a minimum, an analysis of the operation of the court in terms of administrative efficiency, evaluation and utilization of human and material resources, scrutiny of the discipline, order and dignity of the court and a review of the files, books, archives and other documents and registers to determine the court's observance of procedural time-limits and its output. Those in charge of inspections must request officials and employees to provide any necessary explanations on the court's administrative rules and practices as well as its shortcomings and needs.

130. The judicial activity of the members of the judicial profession is subject to continuing performance evaluation to determine merits, detect training needs or recommend methods to improve the administration of justice; the evaluation must be made as often as the Supreme Court considers appropriate. It must be made on an individual basis in the case of justices and judges. The activity of the other officials and employees may be evaluated either individually or in general, bearing in mind the duties of each class or category of employee.

131. Under the disciplinary regime established by law, offences are classified as less serious, serious and more serious and the penalties consist of a verbal or written warning, suspension from duty or removal from office. In addition, a superior officer may address to subordinate staff any warnings he considers appropriate for the purpose of maintaining discipline.

132. In the case of a less serious offence, a warning may be issued, in the event of a grave offence, suspension from office for a period of 3 to 15 days, and in the case of a more serious offence, suspension for over 15 and less than 60 days. All these cases entail loss of salary for the period involved, which, moreover, does not count for purposes of seniority in the service.

133. Suspension may also be ordered on the grounds that a judicial officer or employee is the subject of a detention order or a decision that he has a case to answer. In all these cases the offender is not entitled to a salary and the period of suspension is not counted for the purposes of seniority. The

suspension lasts for the period of the detention order and as long as the person concerned is not released from custody, except in the case of a wilful wrong, when the Supreme Court will determine whether suspension should be continued. In the event of suspension lasting more than six months, removal from office applies and if a decision is then taken to discharge or acquit the judicial officer or employee, he may, at the discretion of the Supreme Court, be considered for the purposes of filling a vacancy in the same category and class as the one he previously held. In such instances, it is understood that the judicial officer or employee appointed to fill the vacancy holds an interim appointment until the member of the judicial profession who has been replaced is removed from office.

134. A member of the judicial profession is removed from office on any of the following grounds:

(a) For having been suspended for more than twice within a period of two years;

(b) For incapacity or inefficiency in the performance of his duties;

(c) For abuse of authority, arrogating to himself duties not assigned to him by law;

(d) For failure to attend to his duties for more than eight consecutive days without justification;

(e) For having been convicted of an offence;

(f) For advocating, sponsoring, organizing and directing strikes, work stoppages or collective labour action;

(g) For performing the duties of a post without fulfilling the legal requirements for that purpose;

(h) For soliciting or receiving gifts, promises or favours from persons involved in a lawsuit, either directly or through a go-between;

(i) For giving advice in judicial matters;

(j) For recording in judicial proceedings events that have not occurred or failing to report events that have occurred.

135. Judges of the courts of appeal or courts of first instance, justices of the peace and other members of the judicial servants, may be neither suspended nor removed from office except on established legal grounds. Suspension or removal without prior judgement has no legal effect and the person concerned may continue in office without prejudice to his entitlement to receive, at the expense of the offender, the salaries not collected by him, as well as compensation for any damage caused to him.

136. The Supreme Court is alone competent to impose any legal penalty on judges of courts of appeal or lower courts or on justices of the peace; with regard to other members of the judicial profession, the competent authority is

the respective superior in rank. The Supreme Court may assign the Council or the Professional Investigation Section the task of conducting the case in preparation for a final decision.

137. Members of the judicial profession have the right and the duty to train in subjects connected with their duties, in accordance with the programmes established for the purpose.

138. With the aim of implementing the objectives of the judicial profession, a college has been established for technical and practical training, updating skills and training candidates for judicial posts.

139. This Judicial Seminar Training College has organized and maintains a fellowships scheme to enable members of the judicial profession to follow training or refresher courses in El Salvador or abroad and, for that purpose, the necessary items are included annually in the budget. Recipients of fellowships must sign a contract and undertake to continue to serve in the Judiciary for the period specified by the Supreme Court of Justice.

140. The Supreme Court keeps the necessary registers to administer and supervise the judicial profession, in conformity with the regulations issued pursuant to the law and the relevant technical rules. Information relating to the services performed by each member of the profession is included in his file.

141. Judges of courts of appeal, courts of first instance, justices of the peace, the Registrar and chief clerk of the Supreme Court of Justice, the chief clerks of the courts of appeal and the registrars of court divisions or chambers who were holding their posts when the Act entered into force, were incorporated ipso facto into the judicial profession. The other posts will be incorporated gradually by decision of the Supreme Court of Justice.

142. Matters not covered by the provisions of the Judicial Profession Act are governed, as appropriate, by the law on the Civil Service Act, the National Institute of Pensions for Public Officials Act, the Judiciary Organization Act, the National Council of the Judiciary Act and other related legislation.

143. Lastly, certain changes were made with regard to the judicial profession as a result of the most recent amendments to the Constitution, these amendments, based by the way, on an anxiety to secure peace throughout the country, have been made in articles 186, 187 and 255, which read as follows:

> "The Justices of the Supreme Court of Justice are elected by the Legislative Assembly for a period of nine years; they may be re-elected and one third of them are replaced every three years. They may be removed from office by the Legislative Assembly on specific grounds established by law. Both the election and the removal of justices require the vote of at least two thirds of the elected deputies. Justices of the Supreme Court are chosen from a list of candidates drawn up by the National Council of the Judiciary as specified by law; one half of the candidates must be put forward by the bodies which represent the lawyers of El Salvador and must be representative of the main trends of legal thinking. The judges of the courts of appeal, the judges of courts of first instance and the justices of the peace enjoy security of tenure.

The law must afford protection to judges to enable them, in the cases before them, to perform their duties freely, impartially and without any pressure, together with a fair remuneration and a standard of living in keeping with their responsibilities. The law specifies the substantive and formal requirements for entering the judicial profession, as well as promotion, advancement, transfers, disciplinary sanctions and other relevant questions".

"The National Council of the Judiciary is an independent institution with the task of proposing candidates for posts as Justices of the Supreme Court, judges in courts of appeal, judges of courts of first instance as well as of the peace. The National Council for the Judiciary is responsible for organizing and operating the Judicial Service Training College, the purpose of which is to enhance the professional abilities of judges and other judicial officers. The members of the National Council of the Judiciary are elected by the Legislative Assembly by qualified majority of two thirds of the elected deputies. The law shall determine all matters concerning this subject".

"The present organization of the Supreme Court shall continue in force until 30 June 1984 and the justices elected by this Constituent Assembly will remain at their posts until that date, when the laws relating to their organization and competence referred to in articles 173 and 174 will have been brought into line with this Constitution. Judges of courts of appeal and or/courts of first instance serving at the present time shall complete their respective terms of office and new judges elected pursuant to the provisions of this Constitution shall enjoy security of tenure and must comply with the requirements laid down".

H. Judicial training

144. The mandate set out in article 74 of the Judicial Profession Act, required that a judicial training college be established for theoretical and practical training of members of the school, updating their skills and training persons who wished to become judicial officers.

Establishment of the Judicial Service Training College

145. Accordingly, the Supreme Court of Justice issued Decision No. 51, dated 5 February 1991, establishing the Judicial Service Training College, intended primarily to train judicial officers.

146. The School is headed by a Board of Directors, consisting of seven members: a justice of the Supreme Court of Justice, who acts as Chairman, two members of the National Council of the Judiciary, a judge of the courts of appeal, a judge of the courts of first instance, the director of the Judicial Service Training College or his replacement, and the Director of the "Dr. Roberto Masferrer" Forensic Medicine Institute or his replacement; there are also seven alternates.

147. The Judicial Service Training College was given the name of the "Dr. Arturo Zeledón Castrillo" College, in recognition of the outstanding qualities of that distinguished jurist.

Aims of the Judicial Service Training College

148. The overall aim of the Judicial Service Training College is to develop special training programmes for judicial officers and to update their skills for proper discharge of their duties and to secure prompt administration of justice and to provide training courses for entry into the judicial profession.

149. The College's specific aims are: (i) to hold basic courses to enter the College; (ii) to hold refresher courses in various subjects and specialities; (iii) to conduct advanced judicial studies for the purpose of making recommendations of practical use in the administration of justice; (iv) to carry out training courses for auxiliary personnel; (v) to publish teaching materials needed for the training programme; (vi) to programme and use audio-visual systems with talks or lectures on the duties of members of the judicial profession or persons who wish to become members; (vii) to devise programmes with an impact on the national juridical community, organizing lectures by national or foreign professionals on topics of general interest; (viii) to organize and maintain a system of fellowships for judicial officers so that they can attend training or refresher courses at home or abroad; (ix) any other objectives the Court deems necessary or desirable to achieve the principal aim of the College.

150. The principal aim is to guarantee the professional ability of judicial officers and employees, as well as security and independence in the discharge of their duties, for better administration of justice for the benefit of everyone.

Resources

151. The Judicial Service Training College does not have a budget to cope with increasing demands in human and material terms. It only has a minimum of resources for normal operations assigned to it from funds from the regular budget of the Judiciary. Nor does it have local financing or external aid to strengthen the development of its work programmes, despite the major efforts being made with the support from the Supreme Court from its operating budget.

152. The Judicial Service Training College's manning table and the financing from the Supreme Court of Justice are as follows:

One director;

One academic administrator;

Two secretaries;

One assistant;

One messenger;

Teaching staff (fees paid by number of class hours).

153. The annual financing of the College by the Supreme Court of Justice is estimated as follows:

Salaries	222,000 colones
Furniture and equipment	60,000 colones
Stationery	15,000 colones
	297,000 colones

The figure of 297,000 colones represents the internal financing, which has to be supplemented by external resources, so that judicial training projects can be carried out successfully.

Curriculum

154. The College's curriculum places special importance on the basic course, which consists of the following subjects, in keeping with article 31 of this College's statutes:

(a) Diagnosis of the administration of justice in El Salvador;

(b) Technical organization and administration of courts;

(c) Constitutional matters related to the Judiciary and constitutional procedures;

(d) Legal axiology;

(e) International treaties and human rights;

(f) Professional ethics;

(g) Informatics;

(h) Evaluation of evidence;

(i) Advanced grammar.

155. Special course for trainee justices of the peace:

San Salvador

Number of trainees	200
Number passed	136

Santa Ana

Number of trainees	111
Number passed	84

San Miguel

Number of trainees		118
Number passed		68
	Total trainees	429
	Total passed	288

156. Lectures and seminars:

June to December 1991:

Lectures 7

Seminars 2

January to August 1992

Lectures 15

Seminars 3

Workshops 9

Round tables 48

157. Number of students in the College's basic course later appointed as judges:

34 = 54 per cent.

158. The basic courses are intended for judges and for persons wishing to enter the profession. Courses are given initially at the following levels:

(a) Basic entrance courses;

(b) Refresher courses for judicial officers and employees;

(c) Advanced courses.

159. Along with the subjects in each course, a number of activities are carried out by specialists, both Salvadorians and foreigners, for example lectures, talks, seminars, round tables, workshops and the like.

160. Projects carried out:

Basic course, June to December 1991;

Auxiliary personnel course for new courts, December 1991;

Special course for trainee justice of the peace; February to March 1992.

161. Projects pending:

Course to train instructors;

Advanced course;

Second basic course;

Publications by the Judicial Service Training College: Bulletin, magazines;

Lectures on television.

162. Preliminary results:

Basic course:

Number of trainees 87

Number passed 63

Support course for new courts:

Number of trainees 108

Number passed 80

I. Main problems in the administration of justice

163. The main problems are:

(a) Lack of cooperation by the population, due to a poor awareness of how the courts work and, in most instances, fear of possible reprisals by the criminal when he is finally released;

(b) Lack of training for persons who work as judges (especially justices of the peace, who are mainly unqualified persons); and

(c) Some delay in the administration of justice, due to the war period.

J. Reforms of the Judiciary Organization Act

164. The reforms of the Judiciary Organization Act in recent years, for better protection of human rights, include the establishment of new courts of first instance, with special jurisdiction in criminal, civil and commercial law, both in the capital and in neighbouring areas, as well as in various towns and cities of the Republic, where it was found that further courts, particularly criminal courts were needed.

165. Similarly, on the basis of the Judiciary Organization Act the "Dr. Roberto Masferrer" Forensic Medicine Institute was established as part of the Supreme Court of Justice, forming a technical body to assist in criminal, civil, labour and administrative cases; it is of great importance in

investigating crimes and persons who may have taken part in committing them, especially in the case of murders, injuries or other acts leaving marks.

166. Again, on the basis of article 160 (C) of the Judiciary Organization Act, the Department of Information on Detainees was established as an effective mechanism to verify arrests made by services assisting in the administration of justice.

167. In short, the reforms in the Judiciary Organization Act in connection with the organization and the jurisdiction of the courts and the establishment of more courts has made for improved protection of human rights in general.

168. The annexes to this report set out the Judiciary's budgets from 1979 to 1992, particulars of the 1992 budget and the estimates for 1993. It is important to note that the Judiciary, as the protector of the democratic system, receives under the Constitution an annual allocation of not less than 6 per cent of current income in the State budget (reform of the Constitution introduced by Legislative Decree No. 64, of 31 October 1991).

169. Also annexed to this document is the budget for the justice sector, consisting of the Judiciary, the Attorney-General, the Prosecutor-General, the Department of Public Prosecutions, the Ministry of Justice and the Public Safety Sector for the years 1990-1993, together with functions and statistics relating to justices of the peace, judges of courts of first instance, and of courts of appeal, justices of the Supreme Court and functions and statistics for other agencies and principal officials in the justice sector.

170. Documentation is also attached containing particulars of the structure, functions, resources and investigation methods of the statistical offices of the Judiciary and the various agencies in the justice sector in El Salvador.

1. Budget of the Judiciary

General

171. The Council of Ministers, consisting of the President and the Vice-President of the Republic and the Ministers of State, draw up the budget estimates of State income and expenditure and submit them to the Legislative Assembly, at least three months before the start of the new financial year. It also discusses changes in the budget in the case of transfers of items under various headings relating to public administration, authorizing expenditures of sums which have not been included in the budget in cases of emergency and when the Legislative Assembly is not meeting.

172. The Constitution of the Republic establishes that the budget estimates for salaries and the costs of the administration of justice is to be prepared by the Supreme Court of Justice and forwarded to the Executive for inclusion, without change, in the General Budget; any budget changes that the Legislative Assembly deems appropriate are made in consultation with the Supreme Court of Justice.

173. The Executive, more specifically the Treasury, is responsible for public finance and is required to oversee implementation of the General Budget, in keeping with the various executing bodies, which administer their own budget.

Amount of budget

174. Under the Constitution, the Judiciary receives an annual allocation of not less than 6 per cent of current income in the State budget, and this is to be done gradually and proportionally until total coverage is reached in 1995.

175. From 1979 to 1992, the Judiciary's budget accounted for varying percentages of current income and the State budget. The lowest was 1.07 per cent in 1984, and the percentage rose after 1987, reaching 3.34 per cent in 1992.

176. It is calculated that the Judiciary's budget will be at least 4.3 per cent for 1993. This is an estimate because there have been no reports from the Ministry of Finance about projected current income for next year (see annexed table).

BUDGET OF THE JUDICIARY AND AS A PERCENTAGE OF CURRENT INCOME IN THE GENERAL STATE BUDGET

(in colones)

Year	(1) General budget	(2) Budget of Judiciary	(3) Percent (2)/(1)	(4) Current income, general budget	(5) Percent (2)/(4)
1979	1 451 925 310	13 461 800	0.93	1 063 300 000	1.27
1980	1 676 063 760	16 997 790	1.01	1 292 839 900	1.31
1981	1 988 518 090	20 114 410	1.01	1 069 518 500	1.88
1982	2 111 069 050	19 800 000	0.94	1 168 054 400	1.70
1983	2 058 802 990	17 761 560	0.86	1 457 330 380	1.22
1984	2 298 441 790	17 661 560	0.77	1 656 752 750	1.07
1985	2 427 466 490	27 287 610	1.12	1 659 175 650	1.64
1986	2 631 317 940	26 605 200	1.01	2 035 405 870	1.31
1987	3 451 424 870	41 627 370	1.21	3 043 675 200	1.37
1988	3 505 877 620	43 627 370	1.24	3 118 611 720	1.40
1989	3 714 027 510	59 860 300	1.61	3 253 952 090	1.84
1990	4 255 730 060	74 666 690	1.75	3 638 444 770	2.05
1991	4 985 884 000	102 861 380	2.06	4 622 300 000	2.23
1992	6 757 640 890	180 172 610	2.67	5 394 974 260	3.34

Budget structure

177. At the present time the budget consists of five programmes and subprogrammes with allocations for each function or activity:

Programmes and subprogrammes:

1.01 Higher administration

0.19 Higher management

0.29 National Council of the Judiciary

0.39 Professional investigation

0.49 Forensic medicine

1.02 Legal services:

0.19 General secretariat

0.29 Notarial services

0.39 Ethics

0.49 Legal publications

1.03 Administrative services

0.19 General administration

0.29 Administration of judicial centres

1.04 Administration of courts:

0.19 Administration of court of appeal

0.29 Administration of courts of first instance

0.39 Administration of courts of justices of the peace

3.01 Construction and renovation of buildings and facilities

178. The functional structure of the Judiciary's budget for 1992 was:

Higher administration	15.2%
Legal services	3.0%
Administrative services	19.5%
Administration of justice	52.0%
Investment	10.3%

179. Since 1979 the Judiciary's budget has been directed chiefly to operating costs, to such an extent that in some years from 1984-1990 there was no actual investment (see table).

180. In 1992, the budget was as follows:

Operating costs:

Salaries	64.7%
Goods and services	13.9%
Transfers to private sector	2.0%

Capital expenditures:

Purchase of equipment	9.1%
Construction	7.0%
Financial investment	3.3%

Projected for 1993

181. For 1993, the budget estimates for the Judiciary have included the following plans:

(a) The establishment of 6 new courts of appeal and 15 courts of first instance;

(b) Increase in hours of work, to a total of 40 per week, in courts of appeal and courts of first instance in the Metropolitan Judicial Area;

(c) Construction of 4 judicial centres and 25 courts of justices of the peace; extensions and renovations in 8 buildings belonging to the Judiciary, and purchase of 14 buildings for various courts.

ANNEXES*

Various statistics

Budget, Justice Sector

Judicial offices

Judges

Attorney-General of the Republic

Prosecutor-General of the Republic

Office of the Procuration for the Protection of Human Rights

Ministry of Justice

Statistical offices

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* The annexes, submitted by the Government of El Salvador, may be consulted in the original language in the files of the United Nations Centre for Human Rights.

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